

LELAND TOWNSHIP PLANNING COMMISSION
Wednesday, March 2, 2022, 2022
Leland Township Library, Munnecke Room
203 East Cedar Street, Leland, MI 49654

I. Call Meeting to Order/Pledge of Allegiance

Chairman Korson called the meeting to order at 7:00 p.m. with the Pledge of Allegiance.

Present: Dan Korson, Chairperson; Clint Mitchell, Township Board Rep; Sam Simpson, Secretary; Skip Telgard, Vice Chairperson

Absent: Ross Satterwhite, ZBA Rep

Staff Present: Tim Cypher, Zoning Administrator; Larry Sullivan, Planner; Allison Hubley-Patterson, Recording Secretary

Guests: Nicole White, on behalf of Bo White, Special Land Use Applicant; Steve and Linda Oosse, Special Land Use Applicants.

There were five (5) members from the public in attendance.

II. Motion to Approve Agenda

Chairman Korson asked for a motion to approve the March agenda. Simpson moved to approve the March agenda as presented; Telgard seconded. **All present in favor, motion carried.**

III. Declaration of Potential Conflicts of Interest – None reported at this time.

IV. Approval of Minutes

Ms. Oosse presented some changes to the February minutes. Discussion ensued between the PC members and the applicant and changes have been noted; amended minutes will be posted to the Leland Township website.

Chairman Korson asked for a motion to approve the February minutes with noted changes. Simpson moved to approve the February 2, 2022 minutes with noted changes; Telgard seconded. **All present in favor, motion carried.**

V. Correspondence

Cypher noted that not all incoming correspondence needs to be read aloud but it is available if anyone wishes to review correspondence received.

VI. Public Comment (three minutes per person unless extended by Chairperson)
– The following comments were made by members of the general public regarding the special land use permit for the proposed kennel filed by Steve and Linda Oosse.

1. Gerald Sutton – Mr. Sutton expressed concern regarding outdoor sound, especially at night, as well as home values. He is concerned about dogs being outside until 10:00 p.m. when people often retire for the evening prior to this time. He also stated that many homes in the immediate area could be impacted by a loss in property value. Mr. Sutton opposes the special land use permit for a kennel in this location.
2. Bob Biggs – Mr. Biggs is a builder who represents two clients in the area near the proposed business location. Mr. Biggs was present at the February meeting, too. He stated that if the nuisance is ongoing, this will place the board in a negative position and will affect Mr. and Mrs. Oosse in terms of their financial investment made in the business. The consequences of a nuisance would be problematic. Objections noted.

VII. Reports

Township Board Rep: Mitchell did not have any information to report.

ZBA Rep: Cypher did not have any information to report.

VIII. New Business –

1. Special Land Use Application – Bo White (private airstrip)

1. Presentation by Applicant - A special land use application was filed by Bo White for a private air strip on his property; this use is allowed under the zoning ordinance. Nicole White attended the meeting on behalf of her husband as he is currently deployed overseas. She reiterated that this air strip is for their private use, exclusively. Mr. White's airplane is currently housed one nautical mile away from their property but they wish to relocate the plane to their property; it will be stored in the barn.
2. PC Questions/Discussions with Applicant – The PC members did not have any questions.

3. Review Correspondence Regarding Application with Staff

Cypher stated that the public notice was sent out to properties within 3,000 feet of the parcel; in total, approximately 200 notices were distributed.

Correspondence from Mr. Clark indicated that he has no issue with the proposed air strip if only one airplane is permitted.

Ms. Ann Weber wrote that she has no objection to the air strip.

Mr. Daryl Couturier, co-owner of Lake Leelanau Excavating Company has no objection to the proposed air strip.

John and Cynthia Lhost were only concerned about possible expanded use of the air strip. It was noted that if this special land use permit is approved, conditions imposed would run with the land.

Ms. Kris Noble stated that she has no objection as long as the air strip is for Mr. White's private use.

4. Public Comment (limited to three minutes per person unless extended by Chair) – no public comment
5. Applicant's Response to Public Comment – not applicable
6. PC Discussion with Staff – none
7. Findings of Fact/Conditions

Cypher stated that he informed Mr. White that a vicinity sketch would be required. Ms. White indicated that Mr. White has not yet landed in this field. Mr. White is Instrument Flight Rules (IFR) rated but this applies to the individual and not the airplane. She reiterated that there will be no outside lighting and no night landing. If night landing is required in an emergency situation, alternatives to permanent lighting could be used, including automobile headlights. It was also noted that if Mr. White wishes to land at night, he is required to adhere to Federal Aviation Administration (FAA) regulations. The 24 acres of property owned by Mr. and Mrs. White will potentially be used for other purposes in the future but runway lighting will not be installed at any time.

Cypher read the comments submitted by Satterwhite who was not in attendance. The Findings of Fact were reviewed in detail.

Page 1:

Section 6.03.B2: Cypher asked the PC members if they would approve a waiver of the vicinity sketch and all agreed that this is not required.

Section 6.03.B3: Cypher will measure and confirm the length of the air strip for compliance of the 1,200-foot rule as defined in the zoning ordinance.

Page 3:

Section 6.03.B8: No new utilities are proposed.

Section 6.03.B12: Runway lights are prohibited and no permanent lighting will be installed. To reiterate, during some weeks in the winter months when it grows dark early, temporary alternatives such as car headlights, etc. can be used for landing.

Section 6.03.B14: Regular gas is used for the airplane as opposed to aviation fuel. Mr. White has stated that the plane holds 36 gallons of fuel and red gas cans are filled and transported from the gas station. Cypher stated that a final approval could be obtained from the Fire Chief regarding storage of fuel.

Page 4:

Section 6.03.B19: The proposed site plan conforms to the ordinance.

Section 6.03.B20: Mr. White has requested waivers with regard to this section; PC members approved this request.

Page 5:

Section 6.05.A: The PC agreed that the proposed site plan would not impede the normal and orderly development of the surrounding property.

Section 6.05.B: The PC agreed that the proposed site plan is in compliance with Article 23.

Page 6:

Section 6.05.D: This standard has been met.

Page 8:

Section 6.05.O.2.: Cypher will check with the Fire Chief on this item as well as with the Building Safety Department. Ms. White stated that the barn consists of a dirt floor.

General Standards:

Cypher noted that this section of the ordinance has been met. Ms. White confirmed that the landing strip would be mowed regularly; Cypher stated that a mowing standard will be imposed by the Fire Chief as well. There is no concern about the impact on public services and this item has also been addressed with the Fire Chief. There will be no impact on traffic. There will be minimal detrimental effects and it was noted that noise would exist for short durations of time. Tracks from the airplane are not a major concern. It was again noted that Mr. White will comply with all applicable county, state and federal requirements as they pertain to this special land use.

Page 11:

Section 16.03: Mr. White provided information that the air strip is for his private use. Ms. White stated that she is also learning to fly and will eventually obtain her pilot's license. Discussion ensued regarding the number of planes that can be in use at one time and the definition of a "household". The PC stipulated that only one airplane can be in use at any given time and the air strip may only be used by Mr. and Ms. White and their immediate family members. If the air strip is ever charted, Mr. White must return to the PC for approval.

Page 14:

Section 21.01: Off Street Parking and Loading: This section will note that use of the proposed air strip will only be allowed for the property owners and their immediate family members.

Cypher returned to the letter submitted by John and Cynthia Lhost where questions were raised about the future, beyond the time when Mr. and Ms. White may own the property. Ms. White stated that the length of the air strip will preclude any plane of larger size from landing here. It was reiterated that no permanent lighting would be allowed. If the air strip were converted from grass to asphalt, this would be a major change under the ordinance and Mr. White would need to return

to the PC for approval. Ms. White also noted that it takes approximately 24 to 26 seconds to take off and vacate the immediate vicinity; they do not fly in circles directly above the property and the pattern of how they fly will not change from what has been their practice in the last year. Cypher noted that no complaints have been received to date.

8. Further Discussions with Staff or Applicant – no additional discussion
9. Consideration of Motion by PC to approve, approve with conditions, or deny application per Z.O. Section 7.02D

Simpson made a motion to approve the application by Mr. Bo White for a special land use permit for a private air strip with the amendments made on the Findings of Fact, including waivers and conditions; Mitchell seconded. **All present in favor; motion carried.**

IX. Old Business

A. Oosse Special Land Use Application – Steve and Linda Oosse: Complete Findings of Fact, Sound Study Proposal

A special land use application was filed by Steve and Linda Oosse for a kennel at 210 North Popp Road in Lake Leelanau.

Cypher updated the PC on the status of this application since the February meeting.

1. Presentation by Applicant

Ms. Oosse read a document that she prepared and submitted to the PC titled, “Sound study? What do you hope to gain from doing a sound study?” The text of this document appears at the conclusion of these minutes **(Appendix A)**.

Ms. Oosse noted that 40 letters had been received in support of this proposed special land use permit; 12 letters were in opposition to the project. Cypher will audit these figures. Correspondence was received from neighbors, other members of the local community who work in Leelanau County, and from individuals expressing that this service is wanted and needed in the area.

2. PC Questions/Discussion with Applicant

Ms. Oosse also distributed copies of a map depicting surrounding properties; she stated that she did not receive a response from some residents as noted on the map regarding their support or lack thereof for this proposed site use application. Ms. Oosse was able to obtain approval from many surrounding residents whose properties are depicted on the map. Cypher stated that he sent notices to residents based on distance from the property lines and not based on distance from the proposed kennel structure. A 300-foot notice is the minimum standard.

3. Review Correspondence Regarding Application with Staff

Cypher stated that the work of the PC does not focus on the need for a service; the responsibility of the PC is to obtain input from adjacent property owners. The unofficial survey that Ms. Oosse conducted on Facebook was also discussed; the applicant indicated that this survey shows a need for this type of service in the area. Cypher shared comments that were received on Wednesday, March 2, 2002 from nine individuals who indicated support for this project. In addition, since the February 2022 meeting, Cypher read the names of 11 members of the community who are in support of this project.

Ms. Oosse discussed a recent meeting held at the property with Ms. Ellie Johnson, the District Forester for Leelanau, Benzie and Grand Traverse Conservation Districts. Ms. Johnson has submitted a letter detailing the results of her assessment of the Oosse property; this letter can be found at the end of these minutes **(Appendix B)**.

4. Public Comment (limited to three minutes per person unless extended by Chair)

Mr. Sutton stated that the comments and letters in support of this project are not of any value if they are not from the adjacent property owners as these people will experience the greatest impact. He asked for clarification as well as how adjacent property owners would seek recourse.

As a member of the general public, Cypher also shared comments from Satterwhite who was not in attendance.

5. Applicant's Response to Public Comment – none

6. PC Discussion with Staff

Sullivan shared his comments from a prepared document titled, “Planner’s Comments Regarding JC’s Oasis: Compliance or Lack Thereof with Section 16.01 General Standards Applicable to All Special Land Uses”. Sullivan was asked by the PC at the February 2022 meeting to research the Master Plan and Zoning Ordinance and to provide guidance to the PC as to whether this special land use permit complies with the Master Plan.

Sullivan believes there is both support and opposition with regard to the Master Plan.

Section 7.3.1: Land Use Goal

Sullivan noted that, “The minimum lot area required for a kennel is five acres; the required setback of the kennel of a minimum of 100 feet from all property lines would be considered as preserving open space”.

Sullivan stated that, “The health and welfare of residents living in the vicinity of the kennel could be adversely impacted”.

Sullivan stated that, “A use of this nature could result in the protection of open space if the location of a kennel was to discourage development of the surrounding properties...”.

Section 7.3.2: Agricultural Support Goal

Sullivan stated that, “This use could be considered as adding to the Township’s economic health”. This proposed business could create jobs for local residents.

Section 7.3.4: Residential Goal

Sullivan stated that, “Allowance of a kennel in this area given its proximity to Lake Leelanau and its lake front residential development may well be an intrusion of an incompatible use”.

Section 7.3.5: Economic Goal

Sullivan stated that, “The issuance of a Special Land Use Permit to allow for a kennel and dog day care facility would provide for year-round employment opportunities as well as provide a service to residents and tourists”. Sullivan summarized that a kennel would be more appropriately located in other areas such as to the south of M-

204 and east of Manitou Trail with a second possible preferred location to the east of the Village of Lake Leelanau.

Section 16.01 A.1: Sullivan noted that this special land use application is inconsistent with some aspects of the Master Plan.

Section 16.01 A.2: Sullivan stated that, "This special land use permit is inconsistent with the Intent Section of the Zoning Ordinance at the location at which it is being proposed".

Section 16.01 A. 3(1-6): Sullivan commented that, "These are operational issues which may or may not be met over time by the operator of the facility". Sullivan agreed with a comment made by Ms. Oosse that noise levels will vary from month-to-month in this vicinity.

Section 16.15 A: Sullivan stated that, "The Special Land Use Permit as proposed complies with this section".

Section 16.15 B: Sullivan noted that "These are operational issues which may or may not be able to be met by the operator".

Discussion ensued regarding the fact that the ordinance requires three acres for standard land division.

At the February 2022 PC meeting, Cypher indicated he would meet with legal counsel regarding the subject of habitual barking. Counsel stated that the habitual barking is prohibited under the ordinance and that a two-pronged approach is used; each element must be present. First, the barking must be habitual and it must be a nuisance to the neighbors. The nuisance must rise to the level that use of the adjacent land is affected.

7. Findings of Fact/Conditions

The Findings of Fact were partially reviewed at the February 2022 meeting.

8. Further Discussions with Staff or Applicant

Chairman Korson inquired about the proposed sound study. He noted that the applicants will need to determine if they want to undertake the cost of the sound study but also stated that the main issue to be resolved is how to handle the noise that will be generated from the kennel.

Chairman Korson asked the applicants if they would be willing to incur the expense of the sound study. Ms. Oosse stated that Deputy Kalchik indicated that there are apps on smart phones that perform the same function as a sound study. Cypher commented that the apps on phones are not as precise and that a baseline measurement is needed. He also noted that if a sound study is conducted over time, this would delay the approval process for this special land use permit.

Telgard commented that the sound study is to establish a baseline and should compare noise from various dog kennels. The PC would place a condition on the application that they must stay within a certain noise level. Cypher added that the ordinance language is very strict regarding “habitual barking”. Mitchell inquired as to what the sound study will actually tell us; he noted that the county does have a definition of “habitual barking” but that the township does not. Mitchell expressed concern that others will try to define “habitual” through litigation. He added that because this may occur, it is important for the PC to consider the definition of “habitual” at this time.

Discussion ensued between Chairman Korson and Mitchell. Chairman Korson reminded the Commission that Mitchell previously mentioned other kennel businesses being grandfathered in relative to the ordinance and cited a specific kennel that operates near residential property. Mitchell noted that the other kennel is not in an area where real estate is expensive and this is different than the real estate in close proximity to the Oosse property.

Chairman Korson discussed how additional noise will result when more people settle in an area; these individuals will have boats and will partake in other recreational pursuits that bring noise. He noted that a sound study may not be beneficial and noted that there is a large buffer of trees between the Oosse property and the lake.

Sullivan discussed Section 16.15 A.3 and mentioned that the PC discussed moving the kennel building to another part of the property. The ordinance states that the “principal building” must be at the rear of the property. The front lot line of the Oosse property runs along Popp Road. Cypher stated that the definition of a “principal building” is “the main building on a lot in which principal use exists or is served by”.

Simpson inquired if the lot could be divided. As of now, the primary use on the property is the residential home. If the parcel were to be split, the question is whether the kennel is an accessory building. A kennel is allowed as a special land use in this district. Cypher asked if something would be created in this situation that is non-conforming. The parcel may be able to be divided into two; the kennel could be

placed on one parcel and the dwelling would be on the second parcel. Article 18.08 General Provision discussed an “accessory building”. The question for consideration is: Is the kennel an agricultural building? Cypher stated “No”.

Telgard stated that the concern here is strictly in regard to the noise. There was concern previously that a chain link fence would not provide a noise buffer but the proposed high walls will change the level of the sound coming from the property. He also stated that a concern is the amount of noise coming from inside as the barking will echo but steps can be taken to reduce the interior noise. Telgard stated that the most significant issue pertaining to the noise level is the number of dogs that are permitted.

It was noted that there are three different fence heights of five feet, six feet and eight feet; these are denoted by different colors on the site plan. On the plan, the blue line denotes a fence that surrounds the outdoor kennels. The yellow line represents the area for smaller dogs where an eight-foot fence is not needed.

Discussion ensued regarding doggie daycare and pet boarding, including other animals that are considered pets. Ms. Oosse stated that if additional types of animals are boarded, she is not required to be licensed for cats, rabbits or gerbils. Sullivan noted that overnight boarding could be preferable over daycare as it would involve less traffic. Mitchell inquired as to how many PC members were aware that cats could also be boarded at the business; all PC members stated that they were unaware that cats and other small animals would be boarded. Per the zoning ordinance, it was noted that a kennel is defined as a “lot or premises on which four (4) or more dogs, cats, or other domestic pets, six (6) months of age or older, are kept, either permanently or temporarily, for the purposes of breeding, boarding, training, sale, or transfer.”

Further discussion ensued regarding the number of total animals that would be permitted under this special use permit. Ms. Oosse indicated that, depending on the mix of animals, they may need to request that a greater number of animals be permitted. Simpson stated that the applicant would need to put a specific number in the application. Ms. Oosse stated that the number of animals could be left at 45.

Mr. Sutton stated that the absence of comment from an unbiased third party in this matter could pose a risk for the PC. Chairman Korson again questioned whether or not the sound study would provide useful information to help the PC members reach a decision on this application. Simpson stated that this is not the best place for this type

of business due to the location and the potential sound generating from the animals. Simpson also noted that there must be recourse for nuisance and asked if the sound study would actually solve anything. Chairman Korson believes that this study will only tell us what the decibel level is from month-to-month.

Prior to the next meeting, Simpson asked if Cypher and Sullivan could discuss what recourse would be available for neighbors in the area. As to the sound study, Cypher noted that items 5 and 6 on the proposal would be important in terms of providing useful information to the PC; these two items pertain to determining a common lot line sound level based on the ambient sound level and issuing a report that advises on the ambient levels relative to lot line sound levels for kennels, in general. Cypher noted that the sound study final report would still not address the definition of "habitual".

Chairman Korson inquired about the process used to conduct the sound study. Simpson asked Sullivan again what recourse might be available to neighbors who are impacted. Mitchell noted that the definition of "habitual barking" will vary by neighbor and by their attorneys if the matter is litigated. Cypher stated that this poses an "enforcement nightmare" but also noted that all complaints registered must be valid. Cypher advised the board to set-up findings in a defensible nature as their ultimate decision could be challenged to the Zoning Board of Appeals and the Circuit Court. Simpson agreed that the PC must define "habitual" now or this will be problematic for the PC in the long run. Knowing that complaints may be lodged, Simpson requests a step-by-step process outlining how neighbors can seek recourse.

Cypher noted that the Webster's or Black's Law Dictionary is used to provide a standard definition when one does not exist. Cypher also noted that Ms. Oosse mentioned the County process in her presentation but the PC is acting on behalf of the Township. Simpson stated that both the PC and the applicant would be open to litigation if the term "habitual" is not defined before voting on a decision regarding this special use permit. Cypher stated that legal counsel noted that "habitual" varies from person to person. Chairman Korson stated that the habitual nature of the barking is what constitutes a nuisance.

If a nuisance is defined at a decibel level of 55, the applicant can take steps to ensure that the noise level remains below this threshold. Cypher informed the PC that for each increase of 10 in decibel level, the noise level doubles. It was also discussed that the ordinance does not address consistent noise which continues for long periods of time. Sullivan stated that the noise does not need to be very loud but the

consistent also attributes to nuisance. Mitchell believes that the PC does not have the internal expertise to properly determine the number of dogs that would be appropriate to set as a condition for this special use permit. Mitchell stated that barking dogs at a kennel is not equal to barking dogs that live at various residences around the area.

Cypher stated that with a special land use, he is permitted to investigate a complaint by going onto the property in question. In a private situation, he must obtain permission from the property owner to enter the premises. Cypher also stated that dog barking complaints are directed to Animal Control as they can address complaints at any time of the day or night. Chairman Korson stated that he would suggest that the sound study simulate the barking of 40 dogs and that this data be brought to the PC.

Simpson reminded the PC that other prior applicants were asked to bring forward their best use at the time of application so Mr. and Mrs. Oosse could be asked to do the same. Mitchell asked what the next steps would be. Simpson stated that the PC would look one aspect of the application, such as dogs being outside until 10:00 p.m., and this would be revisited. Mitchell expressed concern that the PC may find these hours to be acceptable but neighbors may not agree.

Mitchell stated that certain things may be tried by the applicant that the PC is unaware of; Simpson stated that this could occur with any situation. Simpson countered that the best thing to do may be to put this back on the applicant and allow them time to further determine what the business will entail as well as to work out all of the particulars. Once this has been done, the PC can determine what conditions would be imposed on the applicant.

Ms. Oosse inquired if the sound study could be performed using a smart phone app. Chairman Korson denied this request and indicated that a company would be needed to conduct the sound study. He would like the sound engineers to note how much noise will be generated with x-number of dogs on the property. Ms. Oosse mentioned that they are considering other uses of the property and stated that breeding alpaca and/or donkeys or even animals such as sandhill cranes would be louder than the proposed kennel. Simpson asked the applicants if they would reconsider the times when the dogs are inside versus outside. Ms. Oosse stated that the dogs would probably go inside when they close up for the day at around 7:00 p.m. or 8:00 p.m.; they would then go out for the final bathroom break of the night about 10:00 p.m. After this, the dogs would remain inside for the duration of the night.

Mr. Oosse inquired if the PC decision must be unanimous regarding the special land use permit. It was explained that a vote of three out of five members is required.

Simpson stated that one condition would be the time of night that the dogs must be taken inside. Simpson asked Telgard if, in his opinion, the number of animals should also be a condition. Telgard stated that the number of animals is indeed a condition as well as how to mitigate noise coming from the kennel building.

9. Consideration of Motion by PC to approve, approve with conditions, or deny application per Z.O. Section 7.02D

Chairman Korson made a motion to have the applicants obtain a sound engineering study to obtain the decibel reading at all four property lines while simulating 40 dogs barking, review the application for the number of dogs permitted, consider the time all dogs must be taken inside and explain the building insulation specifications; Simpson seconded. **Korson, Simpson and Telgard voted in favor; Mitchell opposed. Motion carried.**

- B. Bunbury Zoning amendment – tabled to April 6, 2022 meeting

- C. Master Plan – Mitchell stated that he has no issues with the Master Plan. Korson would like to see the term “fishing” changed to “recreational activities” and GAAMP farm guidelines should be referenced in the document. Korson gave the document with proposed changes to Sullivan.

- D. Short Term Rentals – no report from Cypher on this matter.

- X. Zoning Administrator Comments – nothing to report
- XI. Planning Commission Comment - no comment
- XII. Public Comment (limited to three minutes per person unless extended by Chairman)

Ms. Oosse inquired as to whether the board may entertain questions from the public at any time while a topic is being discussed. Chairman Korson and Cypher stated that, although it is our practice to follow the rules that govern open meetings, we try to be hospitable and accept comments when it is appropriate.

DRAFT

XIII. Adjournment

There being no objection, Chairman Korson adjourned the meeting at 10:55 p.m.

The next meeting is scheduled for Wednesday, April 6, 2022, at 7:00 p.m. at the Leland Township Library (Munnecke Room).

Respectfully submitted,
Allison Hubley-Patterson
Recording Secretary

APPENDIX A

Leland Township ... nuisance ordinance in ZO

Max dogs boarded based on the 11 boarding kennels: on a perfect day, 11 families call and ask for boarding on same weekend. Each family has two dogs. That would put my overnight accommodations at 22 dogs. Highly improbable but I suppose if all the stars aligned is possible .

Sound study? What do you hope to gain from doing a sound study?

- my concerns with having a sound study done for this area are as follows:
- Summer noise, Spring noise, and fall and winter noise are significantly different beasts
- winter noise consists of coyotes howling through the night, snowmobile's running through the day and into the evenings, car traffic noise on the roads
- In winter there is less sound dampening help from Summer foliage
- By contrast, the foliage in the summer provides much more sound Suppression support.
- Summer noise consists of heavier than normal traffic due to tourists visiting local wineries, breweries, beaches and parks.
- Summer noise consists of extreme amounts of Lake traffic including motor boats, jet skis, (especially at the Narrows as that is the transfer point between north and south Lake Leelanau.)
- Summer noise consists of children yelling and having fun at parks, in the water, and at neighboring homes.
- Summer noise also consists of fireworks, late night parties at parks and beaches and sand bars and continued coyotes howling.
- Spring summer and fall consist of gun noise from target practice and hunting.
- Spring, summer, and fall noise consists of lawn care companies with large trucks and trailers, chainsaws, leaf blowers, and lawnmowers that run continuously and over sustained time.
- Spring, summer, fall and occasionally winter consists of noises affiliated with new builds and renovation construction : nail guns, saws, large trucks and excavation equipment.
- All four seasons experience sirens from first responders
- All four seasons consist of local dogs barking at all hours of the day for non sustained lengths of time. IE my dogs will bark at a crow or a hawk flying over our chicken coop until it ceases to be seen and then the dogs stop barking.

- A professional sound study I believe would be a waste of time and money on both the planning commission and myself as it would create a hardship on the township to enforce potential issues that might arise in the future, when animal control already has its own ordinances as dictated through the county to abide by and enforce.
- Traverse City has a Maximum Sound Levels Table" used in their Noise Ordinance. : in residential area and multi family areas between the hours of 10 PM and 7 AM a weighted sound level limit of 60 is acceptable. From 7 AM to 10 PM a weighted sound level limit of 65 is acceptable.

In regards to lowering property values there is no proof of a well run business, that abides by all regulations and ordinances, reducing property values simply by its existing.

(Refer to study by Housely

<https://housely.com/industries-that-diminish-property-values-the-most/>

And article "Retail Proximity and Residential

Values..." <https://www.issueab.org/resources/4941/4941.pdf>

In fact, I tried multiple searches to discover documentation that proves that belief. I was able to find one such document but it was an opinion piece by the editor.

In regards to the concerns of a few letters from neighbors, the distance from the business by which to frame your decision as to whether or not to allow a special land use permit needs to consider the fact that for most commercial businesses, a 300 foot perimeter is what is typically used to notify neighbors in Leland Township if I understand correctly. You expanded that perimeter to inform locals to a distance of 1500 feet from the property line. I'd like to bring your attention to a map showing the actual business placement on our property and a 1200 foot perimeter. I believe this perimeter is a truer look at the potential impact of noise and smell issues that are being raised.

My findings upon studying the Sound Study

Regarding the information provided by Chip Freeman "a noise impact study" regarding dog barking. I've taken it upon myself to fill in the missing piece. I have also provided an additional piece of information that is a map with a radius of 1200 feet around the possible business of kennel as drawn by R. herman at the equalization department.

While I recognize the importance of notifying neighbors about proposed businesses being located within relatively close proximity, I feel it is also important to look at the information completely and accurately. So, while the folks on E Ryans Way and Baxter Rd may hear dogs barking, it is unlikely the sounds and smells from the proposed business would actually reach them at a "nuisance" level. It is at a distance of 100' - 700' from the kennel where the dba is 57-40 (accounting for transmission loss), at 1100' distance from the kennel the dba would be 35-38 (accounting for transmission loss), which as a result places the dba at a rural reading. Please note that the homes on E Ryans

Way fall beyond the 1100' range as indicated by the map provided by the Equalization Dept of Leelanau County for 1200' perimeter from proposed business. The above information does not account for the natural buffers already existing in the form of cedar swamp, pines, hardwoods, scrub etc that comprises nearly all of the land between the proposed kennel location and the homes on E Ryans Way and Baxter Rd. (Please refer to Foresters letter about our property). They will hear no more dogs barking than they already hear from their immediate neighbors. And those impacted to a large degree, by potential dog barking from the business, are already in favor, or at the least, are not concerned with the proposed business. With the exception of the Foleys who own property adjacent to ours and that currently has a pole barn and no residence and Dawn Russell whose lot holds a camper and also adjacent to our property.

Upon further investigation into the report that was provided I believe there are a couple of pieces that are in fact missing those being the distance of 1100 feet for ambient noise level and then the actual transmission loss at the distance from the proposed kennel, as it would affect those homes in opposition.

Ambient noise level at 1100' falls within the range of 59.8 - 62.9

Considering a transmission loss for the distances claiming to be most negatively impacted: that is 500' -1500' from kennel being approximately 24 db. If you then apply that loss to those distances of ambient noise you would arrive at the following levels:

500': 42.1-45db

700': 39.1-42.2 db

1100' (added by me): 35.8-38.9 db

1500': 32.5-35 db

Taking into account again the distances claiming to be most negatively impacted, you can see that the levels at 500' -1500' drop significantly with the presence of an "isolation fence". Those levels are 42.1db at 500' and 35db at 1500' distance from kennel.

Citing Chip Freemans sound study: those levels fall within his findings of recommended sound levels for rural and urban private homes.

Please note: Chip Freemans study does not take into account the natural sound barriers of trees, shrubs, and swamp between the proposed building and homes on E. Ryans Way and Baxter Rd, the Foleys property and the Russell property. All of which fall beyond the 1200' radius from the kennel except Foleys and Russells. At 1100' the noise level for 20-40 dogs, taking into account transmission loss falls within the range of 35.8-38.9 db which, according to Chips study is well within the recommended sound level for "private homes, RURAL/suburban.

Chips study also implies that 20 to 40 dogs would be barking at the same time for an extended period of time. Again while not impossible, highly improbable.

This also begs the question: into what zoning area does "medium density Lakeshore residential " fall? Into rural/suburban or urban?

In addition, I had a discussion with Deputy Wayne Kalchik the local animal control officer and he states "in the last two years there have been no barking complaints due to kennel operations".

We talked at length about complaints of private dog owners and he stated that he may get 1 to 2 per month and that typically he considers those to be resolved via an educational approach, that once explained the problem is solved and he very rarely writes a tickets for said complaints.

He also indicated that Leelanau County already has a sound ordinance as it pertains to dogs that dictates duration of barking. See Animal Control Enforcement Ordinance for Leelanau county article 9 section 1 (f).

"An owner shall not intentionally, or by failure to exercise due care, allow a dog to whine, yelp, bark, howl, or make other sounds common to its species, continuously for a period of 10 minutes or longer, if the noise can be heard from the private property of another person, or from any adjoining public land, between the hours of 11 PM and 7 AM., Or at any time in a habitual manner. For the purposes of the subsection, "continuously" means no time period of less than one minute, and "habitual" means making sounds, as previously described, continuously for a period of 10 minutes or longer on three or more occasions within a 60 minute period, or continuously for 30 minutes or more."

I would argue that the concern over defining "nuisance" and "habitual" as it pertains to dogs barking, as raised by the planning commission last month, should be resolved due to the above ordinance, and its definitions, currently on the books for Leelanau county.

Deputy Kalchik also stated that Animal Control would not enforce Township ordinance complaints. He would instruct the complainant to file with the township. As animal control already follows the Leelanau county animal control enforcement ordinance as stated above.

In other words, if the planning commission Institutes a DB level by which the proposed business would need to abide by and there were complaints it would be the townships responsibility to respond to and deal with those complaints.

Lastly, to mitigate nighttime issues we intend to have a Video/sound surveillance throughout the night allowing us to respond immediately to issues because we live on site.

APPENDIX B

Letter from Ms. Ellie Johnson, District Forester Leelanau, Benzie and Grand Traverse Conservation Districts

March 1, 2022

Leelanau Conservation District

8527 E Government Center Dr #205

Suttons Bay MI 49682

To Whom It May Concern:

My name is Ellie Johnson, and I am the District Forester for Leelanau, Benzie, and Grand Traverse Conservation Districts. I went on a site visit with Linda Oosse the afternoon of Thursday, February 10, the purpose of which was to discuss the composition of her forest property, identify potential forest health risks, and just give a general summary about the state of things. In our walk through of her 24.69 acre parcel (# 009-023-011-00), we saw that the interior of her property is an intact mesic site mostly composed of hemlock and cedar groves, with various *Populus* and other hardwood species dispersed throughout. Immediately around her home it is more open, with white and scotch pine clusters and some autumn olive patches scattered around the yard. But the majority of the property (i.e., land north of the house and proposed dog daycare) is mesic hemlock and cedar groves. Conifers are generally incorporated into landscaping projects to be used as auditory and visual screens, and the Oosse's are fortunate that they have a naturally occurring buffer on their property.

Hemlocks (*Tsuga canadensis*) are currently at risk for an invasive insect called the hemlock woolly adelgid (*Adelges tsugae*). However, Linda has been made aware of this risk, knows how to identify signs of infestation, and is familiar with the Invasive Species Network (housed in Grand Traverse Conservation District) and the services they provide to survey, protect, and treat hemlock trees. With the knowledge and resources available, Linda has the ability to make strong forest stewardship decisions and through her actions can keep her property a healthy, resilient forest.

Please let me know if you have any questions, comments, or concerns at this time, and thank you for requesting my expertise.

Best,

Ellie Johnson

District Forester

DRAFT